

PUBLIC HEALTH EMERGENCY POWERS

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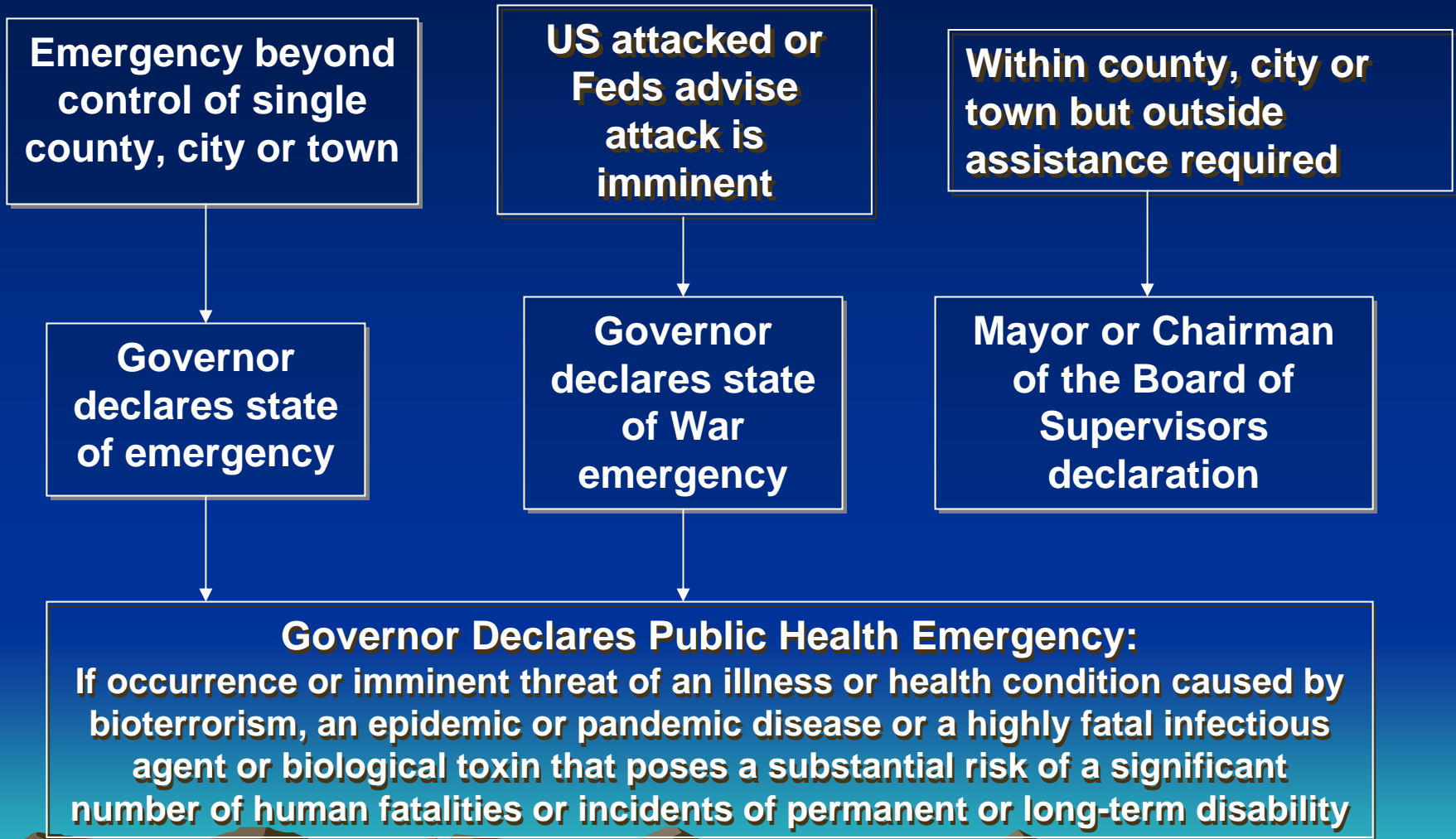
Absence of Emergency

“Ordinary” Isolation and Quarantine Authority

**The basis for the day-to-day isolation and quarantine authority rests at the local level--the county health department or public health services district--and is found at
A.R.S. § 36-624**

Emergency Powers

A.R.S. Title 26, Chapter 2, Article 1



Local Emergency Powers

A.R.S. § 26-311

Mayor or Chairman of the Board of Supervisors may govern by proclamation and has authority to impose all necessary regulations to preserve the peace and order, including but not limited to:

- Imposition of curfews**
- Ordering the closing of any business**
- Closing public access to any public building, street, or public place**
- Calling upon law enforcement within or without the political subdivision for assistance**
- Notify county constitutional officers that their county office may remain open or may close during the emergency**

Local Emergency Powers

A.R.S. § 26-311 (Continued)

- **Other political subdivisions may provide mutual aid during emergency.**
- **State agencies may provide mutual aid.**

State of War Emergency

A.R.S. § 26-303

- During a State of War Emergency, the Governor may:
 - Suspend statutes and rules if they would prevent, hinder or delay mitigation of the effects of the emergency.
 - Commandeer and utilize any property or personnel deemed necessary and for which the State will pay reasonable compensation.
- Governor has complete power over State agencies and exercise all police powers vested in the State
- If Legislature not in session, Governor must call special session within 24 hours or Governor's powers terminate

State of Emergency

A.R.S. § 26-303

- **Governor has complete authority over all State agencies and right to exercise all of the police powers vested in the State**
- **Governor may direct all State agencies to utilize and employ State personnel, equipment and facilities to provide assistance during the emergency**

Provisions Under The Recently Enacted Title 36, Chapter 6, Article 9

Enhanced surveillance advisory (A.R.S. § 36-782)

- Is issued by the Governor after consultation with the Director of the Department of Health Services (Department)**
- Issuance requires there be reasonable cause to believe that an illness, health condition or clinical syndrome caused by bioterrorism, epidemic or pandemic disease or a highly fatal and highly infectious agent or biological toxin has or may occur or that there is a public event that could reasonably be the object of a bioterrorism event.**

Provisions Under The Recently Enacted Title 36, Chapter 6, Article 9 (Continued)

Public Health Emergency (A.R.S. § 36-787)

- Already Governor-declared state of emergency or state of war emergency required**
- Where there is an occurrence or imminent threat of an illness or health condition caused by bioterrorism, an epidemic or pandemic disease or a highly fatal infectious agent or biological toxin and that poses a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability**

Enhanced Surveillance Advisory

A.R.S. § 36-782

Governor, after considering the least restrictive measure necessary, shall direct:

- **Those persons and entities required to report**
- **The clinical syndromes, any illness or health condition that may be associated with bioterrorism or a specific illness or health condition to be reported**
- **Patient tracking**
- **Information sharing**
- **Coordination of specimen testing**

Enhanced Surveillance Advisory

A.R.S. § 36-782 (Continued)

- The Department will notify local public health authorities before the Governor issues an advisory.
- Meet with representative of affected persons or institutions before the Governor issues an advisory, or within 72 hours if circumstances do not permit a prior meeting
- At Governor's direction, Department may use reasonable efforts to assist persons and institutions obtain reimbursement for costs of implementing the advisory.
- An advisory expires after 60 days unless renewed by the Governor.

Increased Reporting During An Advisory

A.R.S. § 36-783

- **Health care providers and medical examiners shall report the illness, condition or syndrome specified in the advisory to the local health authority and include any additional information required by the advisory.**
- **State Veterinarian, veterinarians, veterinarian laboratory professionals, or wildlife professionals shall report animal illness or death due to the disease or other condition designated in the advisory to the Department or local health authority.**
- **Pharmacists shall report any unusual increases in prescriptions for antibiotics or any unusual increase in prescriptions or sales of over-the-counter drugs to treat the illness, health condition or clinical syndrome identified in the advisory to the local health authority.**

Increased Reporting During An Advisory

A.R.S. § 36-783 (continued)

- Reports must be in writing or as otherwise directed by the Department or local health authority and submitted within 24 hours.
- Information that is a trade secret or would cause substantial harm to a business' competitive position is confidential.
- Local health authorities shall immediately notify the Department of reports received.

Patient Tracking During An Advisory

A.R.S. § 36-784

- The Department and local health authorities may access confidential patient information wherever and by whomever held to identify, diagnose, treat, and track persons who may have been exposed to an illness, health condition, or clinical syndrome identified in the advisory.**
- Department and local health authorities shall counsel and interview any person necessary to positively identify exposed persons and to obtain information about the source and spread of the illness or condition.**
- Any personally identifiable medical information obtained by the Department or a local health authority during an advisory is confidential and not available to the public.**

Information Sharing During An Advisory

A.R.S. § 36-785

- **Public safety authority shall immediately notify the Department or local health authority when it learns of a suspicious disease event or learns of a threatened bioterrorism act. The Department and local health authorities shall keep each other informed of reports.**
- **The Department or local health authority shall immediately notify the appropriate public safety authority or tribal health authorities when it identifies a reportable illness or health condition, unusual disease cluster or suspicious disease event that it reasonably believes may be caused by bioterrorism.**

Information Sharing During An Advisory

A.R.S. § 36-785 (Continued)

Sharing of information of reportable illnesses, health conditions or unusual disease clusters or suspicious disease events by the Department or local health authority with public safety authorities is limited to that necessary to effect the advisory and does not include medical records--this does not preclude the release of names, addresses, etc. necessary to effect the advisory

Laboratory Testing During An Advisory

A.R.S. § 36-786

- **The State Laboratory shall coordinate specimen testing relating to the advisory, and if necessary, at the State's expense, the Department may designate other laboratories to assist it.**
- **The Department shall determine the criteria necessary for private or public laboratories to conduct clinical or environmental testing associated with bioterrorism or any illness or health condition subject to the advisory.**
- **A public safety authority, if requested by the Department or local health authority, shall coordinate and provide transportation of clinical or environmental samples to the State Laboratory or other testing laboratory designated by the Department.**

Public Health Emergency

A.R.S. § 36-787

There must be a state of emergency or state of war emergency declared by the Governor in which there is an occurrence or imminent threat of an illness or health condition caused by bioterrorism, an epidemic or pandemic disease or a highly fatal infectious agent or biological toxin that poses a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability

Public Health Emergency

A.R.S. § 36-787 (continued)

The Department has primary jurisdiction, responsibility and authority for:

- **Planning and executing public health emergency assessment, mitigation, preparedness response and recovery**
- **Coordinating public health emergency response among State, local and tribal authorities**
- **Collaborating with relevant Federal Government authorities, elected officials of other States, private organizations and private sector companies**
- **Coordinating recovery operations and mitigation initiatives subsequent to the emergency**

Public Health Emergency

A.R.S. § 36-787 (Continued)

The Department has primary jurisdiction, responsibility and authority for:

- Organizing public information activities regarding State public health emergency response operations**
- Establishing, with professional licensing boards, a process for temporary waivers of professional licensing requirements as needed to address the emergency**
- Granting temporary waivers from health care institution licensing requirements as needed to address the emergency**

Governor Issued Orders During A Public Health Emergency A.R.S. § 36-787 (Continued)

The Governor, in consultation with the Director of the Department, may issue orders that:

- Mandate medical exams for exposed persons**
- Ration medicine and vaccines**
- Provide for transportation of medical support personnel and ill and exposed persons**
- Provide for procurement of medicines and vaccines**

Governor Issued Orders During A Public Health Emergency A.R.S. § 36-787 (Continued)

- **If there is an occurrence or the imminent threat of smallpox, plague, viral hemorrhagic fevers or a highly contagious and highly fatal disease with transmission characteristics similar to small pox during a declared state of emergency or state of war emergency, the Governor, in consultation with the Director of the Department may issue orders that:**
 - **Mandate treatment or vaccination of persons who are diagnosed with illness resulting from exposure or who are reasonably believed to have been exposed or who may reasonably be expected to be exposed**
 - **Isolate and quarantine persons**
- **Law enforcement and the National Guard shall enforce the Governor's orders.**

Public Health Authority During A Public Health Emergency

A.R.S. § 36-787 (Continued)

- **If during either type of governor-declared emergency public health will not be endangered, the Department and its officers or representatives may not impose on any person against the person's will or contrary to the person's religious concepts any mode of treatment, provided that sanitary or preventive measures and quarantine laws are complied with by the person.**
- **At the Governor's direction, the Department may use reasonable efforts to assist the persons and institutions affected by the public health emergency in seeking reimbursement of costs incurred as a result of providing services related to the implementation of isolation and quarantine to the extent the services are not otherwise reimbursable.**

Isolation and Quarantine During A Public Health Emergency

A.R.S. § 36-788

- Isolation and quarantine are available for smallpox, plague, viral hemorrhagic fevers or a highly contagious and highly fatal disease with transmission characteristics similar to small pox--AIDS or HIV-related illnesses are specifically excluded.
- Persons who have contracted one of these diseases or exposed to the disease may be isolated or quarantined if the Director of the Department determines that quarantine is the least restrictive means by which the public can be protected from transmission of the disease, due to the nature of the disease and available preventive measures, or refusal by an individual to accept less restrictive measures to prevent disease transmission

Isolation and Quarantine During A Public Health Emergency

A.R.S. § 36-788 (Continued)

The Department or local health authorities may:

- Establish and maintain places of isolation and quarantine that may include the residence of the person quarantined. The premises shall be maintained in a safe and hygienic manner, and adequate food, clothing, medication, and other necessities, as well as competent medical care and means of communicating with those outside shall be made available.**
- Require isolation or quarantine by the least restrictive means to protect the public health and avoid transmission among the isolated or quarantined.**

Persons Subject To Isolation Or Quarantine

A.R.S. § 36-788 (Continued)

A person in isolation or quarantine shall:

- Comply with the Department or local health authorities rules and orders**
- Not go beyond the isolation or quarantine premises**
- Not come in contact with others not in isolation or quarantine other than a physician or other health care provider or Department or local health authority staff or person authorized by the Department or local health authority**

Persons Subject To Isolation Or Quarantine

A.R.S. § 36-788 (Continued)

- Unless authorized by the Department or local health authority, no person shall enter an isolation or quarantine premises and may be placed in isolation or quarantine if an unauthorized entry is made and the person poses a danger to public health.
- Isolation and quarantine must be terminated by the Department or local health authority if it determines that the isolation and quarantine is no longer necessary to protect the public health.

Due Process For Isolation Or Quarantine

A.R.S. § 36-789

- **Persons may be isolated or quarantined by the Department or local health authority through a written directive without first obtaining a court order if any delay in isolating or quarantining the person would pose an immediate and serious threat to the public**
- **A directive must include the following:**
 - **Specify the identity of the person or person subject to isolation or quarantine**
 - **The premises subject to isolation or quarantine**
 - **The date and time at which isolation or quarantine commences**
 - **The suspected disease, if known**
 - **That a state of emergency has been declared by the Governor**

Due Process For Isolation Or Quarantine

A.R.S. § 36-789 (Continued)

- A directive shall be given to the person or group subject to isolation or quarantine and may be posted when impractical to provide individual copies.**
- Within 10 days after issuing a written directive, the Department or local health authority shall file a petition for a court order authorizing the initial or continued isolation or quarantine of a person or group.**
- Notice of the petition must be provided to the person or group within 24 hours.**
- A hearing must be conducted by the court within 5 days, although it may be continued for 10 days under certain circumstances.**

Court Ordered Isolation Or Quarantine

A.R.S. § 36-789 (Continued)

- **The court shall grant a petition for isolation or quarantine if the preponderance of the evidence shows the isolation or quarantine are reasonably necessary to protect the public health.**
- **A court may authorize isolation or quarantine for up to 30 days and the order shall:**
 - **Identify the isolated or quarantined person or group**
 - **Specify factual finding warranting isolation or quarantine, including any conditions necessary to ensure isolation or quarantine carried out in accordance with the law**
 - **Be served on the person or group**

Court Ordered Isolation Or Quarantine

A.R.S. § 36-789 (continued)

- **Before an isolation or quarantine order expires, the Department or local health authority may move to continue it for up to 30 days.**
- **A person or group subject to isolation or quarantine may apply to the court for an order to show cause why the person or group should not be released. The court must rule on the application within 48 hours and, if granted, hold a hearing within 24 hours.**
- **A person subject to isolation or quarantine may request a court hearing regarding the person's treatment and conditions of isolation or quarantine.**
- **The court must schedule a hearing on the request within 10 days.**

Court Ordered Isolation Or Quarantine

A.R.S. § 36-789 (continued)

- **If the court finds that the isolation or quarantine of the person or group does not comply with the requirements of the law, the court may provide appropriate remedies.**
- **A record of proceedings shall be made and retained.**
- **If parties cannot personally appear before the court, the proceedings may be conducted by authorized representative of the parties and held by any means that allow all parties to fully participate.**
- **The court shall appoint counsel at State expense to represent a person or group subject to isolation or quarantine and who is not otherwise represented by counsel.**
- **Claims by persons or groups may be consolidated.**

Privileges and Immunities

A.R.S. § 36-790

- The physician patient privilege does not prevent a person or health care provider from complying with the duty to report or provide personal information and medical information to the Department or local health authority. The Department and local health authorities shall maintain the confidentiality of the medical information and personal identifiers received.
- A person or health care provider who takes any action required by the law, including reporting, and participating in quarantine or isolation procedures is immune from civil or criminal liability if the person or health care provider acted in good faith. Action required under this law are presumed to be in good faith.

Privileges and Immunities

A.R.S. § 36-790 (Continued)

The immunities prescribed in A.R.S. § 26-314 apply to public health authority exercised under this law during a state of emergency or state of war emergency. This immunity is afforded unless there is willful misconduct, gross negligence, or bad faith.

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QUESTIONS?